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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120919470-3513-02]

RIN 0648-XF955

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Shrimp Fishery off the Southern Atlantic States; Closure of the
Penaeid Shrimp Fishery off South Carolina**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the exclusive economic zone (EEZ) off South Carolina in the South Atlantic to trawling for penaeid shrimp, *i.e.*, brown, pink, and white shrimp. This closure is necessary to protect the spawning stock of white shrimp that has been subject to unusually cold weather conditions where state water temperatures have been 9 °C (48 °F), or less, for at least 7 consecutive days.

DATES: The closure is effective January 17, 2018, until the effective date of a notification of opening which NOAA will publish in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Frank Helies, 727-824-5305; e-mail: *Frank.Helies@noaa.gov*.

SUPPLEMENTARY INFORMATION: The penaeid shrimp fishery of the South Atlantic is managed under the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Amendment 9 to the FMP revised the criteria and procedures by which a South Atlantic state may request a concurrent closure of the EEZ to the harvest of penaeid shrimp when state waters close as a result of severe winter weather (78 FR 35571, June 13, 2013). Under 50 CFR 622.206(a), NMFS may close the EEZ adjacent to South Atlantic states that have closed their waters to the harvest of brown, pink, and white shrimp to protect the white shrimp spawning stock that has been severely depleted by cold weather or when applicable state water temperatures are 9 °C (48 °F), or less, for at least 7 consecutive days. Consistent with those procedures and criteria, the state of South Carolina has determined that unusually cold temperatures have occurred and that state water temperatures have been 9 °C (48 °F), or less, for at least 7 consecutive days and that these cold weather conditions pose a risk to the condition and vulnerability of

overwintering white shrimp populations in its state waters. South Carolina closed its waters on January 10, 2018, to the harvest of brown, pink, and white shrimp, and has requested that NMFS implement a concurrent closure of the EEZ off South Carolina. In accordance with the procedures described in the FMP, the state of South Carolina submitted a letter to the NMFS Regional Administrator (RA) on January 10, 2018, requesting that NMFS close the EEZ adjacent to South Carolina to penaeid shrimp harvest as a result of severe cold weather conditions.

NMFS has determined that the recommended Federal closure conforms with the procedures and criteria specified in the FMP and the Magnuson-Stevens Act, and, therefore, implements the Federal closure effective 12:01 a.m., local time, January 17, 2018. The closure will be effective until the ending date of the closure in South Carolina state waters, but may be ended earlier based on a request from the state. NMFS will terminate the closure of the EEZ by filing a notification to that effect with the Office of the Federal Register.

During the closure, as specified in 50 CFR 622.206(a)(2), no person may: (1) trawl for brown, pink, or white shrimp in the EEZ off South Carolina; (2) possess on board a fishing vessel brown, pink, or white shrimp in or from the EEZ off South Carolina unless the vessel is in transit through the area and all nets with a mesh size of less

than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut, are stowed below deck; or (3) for a vessel trawling within 25 nautical miles of the baseline from which the territorial sea is measured, use or have on board a trawl net with a mesh size less than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of the spawning stock of white shrimp off South Carolina and is consistent with the FMP, the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.206(a) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the EEZ off South Carolina to trawling for penaeid shrimp constitutes good cause to waive the requirements to provide prior notice and opportunity for public

comment pursuant to the authority set forth in 5 U.S.C. 553(b) (B), as such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure.

Providing prior notice and opportunity for public comment also is contrary to the public interest because of the need to immediately implement this action to protect the spawning stock of white shrimp off South Carolina. Prior notice and opportunity for public comment would require time and would potentially further harm the spawning stock that has been impacted due to cold weather.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of this action under 5 U.S.C. 553(d) (3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 17, 2018.

Alan D. Risenhoover,

Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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